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**JD NOT ADMITTED

WRITER'S DIRECT DIAL

March 25, 2010

Via ECF

Hon. Brian M. Cogan
United States District Judge
United States Courthouse
5225 Cadman Plaza East
Brooklyn, NY 11201

SEE ENDORSED ORDER NEXT PAGE

Re: Wronge v. The New York City District Council
of Carpenters Pension Fund
10 Civ. 01224 (BMC)

Dear Honorable Cogan:

This firm represents the Carpenter Pension Fund in the above-referenced matter. I write with respect to request a pre-motion conference pursuant to your Honor's Individual Practices. Moreover, the Fund respectfully requests the Court extend the Fund's time to file a responsive pleading in accordance with the Fund's anticipated Federal Rules of Civil Procedure Rule 12(e) motion for a more definite statement.

This action was initially filed by plaintiff in the Civil Court of the City of New York, and served on the Fund on March 8, 2010. The Fund filed a Notice of Removal on March 17, 2010, claiming that any causes of action the plaintiff may have are governed by the provisions of ERISA.¹ Plaintiff commenced this action by Notice of Claim and Summons to Appear in the Civil Court, which vaguely states the nature of plaintiff's action as an "action to recover monies arising out of defective services rendered and breach of contract and failure to return property and loss of use of property." No complaint or any other document further explaining the basis of this claim has been served upon the Fund. As such, the Fund is unable to formulate its answer or challenge the pleading in a 12(b) motion. Accordingly, a motion for a more definite statement would be appropriate.

In response to the filing of the Notice of Removal by the Fund, an initial conference before Magistrate Judge Ramon E. Reyes, Jr. has been set for April 7, 2010.

¹ The Funds are awaiting confirmation of service of the Notice of Removal on plaintiff personally and by certified mail, return receipt requested.

The Fund notes that plaintiff is a *pro se* litigant, therefore extending the Fund's time to file a responsive pleading and holding a pre-motion conference may offer said plaintiff an opportunity to sufficiently explain his claim and obviate the need for the aforementioned Rule 12(e) motion. The Fund therefore respectfully requests a pre-motion conference to discuss the contemplated Rule 12(e) motion and give plaintiff an opportunity to clarify and explain his claim(s), as well as an extension of the Fund's time to file a responsive pleading until a reasonable time after said pre-motion conference.

Thank you for considering this request.

Respectfully yours,

O'DWYER & BERNSTIEN, LLP

GARY SILVERMAN (GS 9287)

Cc: Hon. Ramon E. Reyes, Jr. (by ECF)
United States Magistrate Judge
United States Courthouse
225 Cadman Plaza East, Rm. N208
Brooklyn, NY 11201

Brian S. Wronge (by certified mail, return receipt requested)
60 East 93rd St., Apt B601
Brooklyn, NY 11212

The complaint does not give adequate notice of the claim under Rule 8(a). The Court appreciates defendant's suggestion that the conference before Judge Reyes may obviate the need for an amended complaint if sufficient detail is placed upon the record. Defendant's time to answer is therefore stayed pending further Order by Judge Reyes at the conference. Judge Reyes will determine whether the discussion on the record is sufficient or whether plaintiff should file an amended complaint, and if the latter, he will set a schedule for plaintiff to do that.

So Ordered: /Signed by Judge Cogan/
Brian M. Cogan
U.S. District Judge

3/26/10

C/H